

**REMARKS**

The paragraph at page 2, line 24, of the specification was amended in an attempt to provide clarity in the first sentence.

The Summary of Invention was amended to conform to the claims and to affirmatively recite a thong pantliner.

The Brief Description of the Drawings was amended to include an amended description of FIG. 10.

The paragraph beginning at page 10, line 1, was amended to provide identical language in the Detailed Description as in the claims. Support for the amendment can be found throughout the specification at, for example, original FIG. 1.

The paragraph beginning at page 11, line 15, was amended to provide identical language in the Detailed Description as in the claims. Support for the amendment can be found throughout the specification at, for example, original FIG. 1.

The paragraph beginning at page 11, line 21, was amended to explicitly recite attachment means 90 and absorbent article attachment means 80..

The previously added paragraph beginning at page 12, line 20, to provide a description for replacement FIG. 10. Support for this amendment can be found throughout the specification at, for example, page 4, line 15 – page 5, line 22, page 8, lines 19-30.

The abstract has been replaced with a new abstract. Support for this amendment can be found in the original and the pending claims.

Claim 1 was amended to recite first end portion and second end portion in view of Hammons , U.S. Pat. App. No. 20030004484, and the placement of the wing to the first or second longitudinally extending edged as elements in claim 1.

Claim 2 was amended to add the word “the” prior to the word “group.”.

Claims 7 and 8 were cancelled without prejudice.

Claim 9 was amended in view of Hammons , U.S. Pat. App. No. 20030004484, to recite first end portion and second end portions.

Claim 16, 17, and 18 were cancelled without prejudice.

Figure 10 was amended to depict a transfer layers and two attachment wings. Support for the above amendment can be found throughout the specification at, for example, page 4, line 15 – page 5, line 22, page 8, lines 19-30.

It is submitted that no new matter has been introduced by the foregoing amendments. Approval and entry of the amendments is respectfully solicited.

## **Objections**

### **Drawings**

The Examiner objected to the drawings under 37 CFR § 1.83(a). (Paper No. 12 at 2.) The Examiner asserted that “[t]he drawings must show every feature of the invention specified in the claims”, e.g., claims 1-21. The Examiner questioned where the figures depicted the transfer layer, the wing in combination with the layer portion and silhouette, the layers of wing, the garment attachment means, and the absorbent article attachment means.

Proposed figure 10 has been submitted in an attempt to overcome the Examiner’s objections to the drawings. Additionally, it is not seen where the claims affirmatively require “layers of the wing.” The Examiner is asked to specify which claim(s) are directed to “layers of the wing” in the next paper issued in the captioned application.

### **Description**

The Examiner objected to the disclosure because:

- (1) “The Summary of the Invention section and the invention are still not commensurate in scope, e.g., on page 2, lines 22-25, where is the article described as being a thong pantiliner? Is line 24 missing a word after “attachment”? (Paper No. 12 at 3.) and
- (2) “the amendment to page 2, line 1 thereof seems to be missing a word or words.” (*Id.*)

The Examiner’s careful review of the disclosure is most appreciated. In view of the Examiner’s comments, the disclosure has been amended. The Examiner is asked to remove this ground of objection in view of the above amendments.

The Examiner also asserted that “Applicant seems to be invoking 35 USC § 122, 6<sup>th</sup> paragraph, interpretation in claims 5-8 and 17-1, see lines 3-5 of claim 5.” (Paper No. 12 at 3.) The Examiner suggested amending the written description to explicitly state the structure in the specification that performs the function recited in the claims concerning garment attachment means and absorbent article attachment means.

The Examiner’s suggestion for amending the specification is most appreciated. The paragraph on page 11, beginning at line 21 has been amended in an attempt incorporated the Examiner’s suggestion in the appropriate location in the written description. The Examiner is asked to consider the amendments set forth above and withdraw this objection in view thereof.

### **Claims**

The Examiner objected to claims 1-2 and 6-21 because of the following informalities:

- 1) in claims 2-4, 6-8 and 10-21, line 1, “A” or “An” should be – The--;
- 2) in claim 1, line 16, before longitudinally”, -- first or second -- should be inserted.
- 3) in claim 2, line 2, before “group”, -- the – should be inserted; and
- 4) in claim 9, line 12, before “layered”, -- a – should be inserted. (Paper No. 12 at 4.)

The Examiner’s careful review of the claims is most appreciated.

Claims 1, 2, and 9 were amended as suggested by the Examiner in items 2), 3), and 4) above. The Examiner is asked to withdraw these objections in the next paper issued for the captioned application.

The Examiner’s objections in item 1) above are again respectfully traversed. It is believed that there is no binding precedent, statute, or rule that requires dependent claims to begin with the word “The” as opposed to “A” or “An.” Therefore, no amendment to the claims is required and none has been made. The Examiner is asked to set forth the rule or statute that forms the basis for this objection or to withdraw this objection in the next paper issued in the captioned application.

#### **Indefiniteness Rejection**

Claims 7-8 and 16-18 were rejected under 35 USC §112, second paragraph. (Paper No. 12 at 4.) In making the rejection, the Examiner asserted that “it is unclear whether Applicant is claiming the subcombination of the wing or the combination of the wing and pantiliner. (*Id.*).

Claims 7-8 and 16-19 have been cancelled without prejudice. Because these claims are no longer pending, it is respectfully asserted that this ground of rejection is moot. The Examiner is, accordingly, asked to withdraw this ground of rejection in view of the above amendments.

#### **Anticipation Rejections**

Claims 1-4 and 13-15 were rejected under 35 USC §102(e) as anticipated by Hammons ‘484 (“Hammons”). (Paper No. 12 at 5.)

For the reasons set forth below, the rejection, respectfully is traversed.

The Examiner asserted that Hammons discloses first portion being 42 or 44, second portion is 45, edges are adjacent 161 and 160 in Figure 41, the core is 24, see paragraph 65, the back sheet is 26, see paragraph 64, the cover is 22, see paragraph 68, the transfer sheet is disclosed in paragraph 77, the wing is 34 or 36, releasable attachment of the wing is disclosed, e.g., in paragraphs 160-164. (Paper No. 12 at 5.) The Examiner admitted that the claim language did not require first and second end portions.

As is well settled, anticipation requires “identity of invention.” Each and every element recited in a claim must be found in a single prior art reference and arranged as in the claim.

The claims have been amended to recite, among other things, first end portion and second end portion. Because it is not seen where in the cited document or in the Examiners basis for rejection the recited structural features of the amended claimed subject matter are in the cited document, the rejection is improper and should be withdrawn.

Claims 1-4 and 13-14 were rejected under 35 USC §102(b) as anticipated by Clark ‘137 (“Clark”). (Paper No. 12 at 6.)

For the reasons set forth below, the rejection, respectfully is traversed.

The Examiner asserted that Clark discloses that first portion and second portion are disclosed at col. 4, line 50, edges are edges of at least one upper pad 50 adjacent 51 as seen in Figure 5, the layered portion is one of the upper pads 50 wherein the core is 24, see col., 5, lines 53-55 and col. 6, line 13, the back sheet is 26, the cover or transfer layer is 22, the wing is at the very least 51 and at the most the entire lower pad 50, releasable attachment of the wing is disclosed at col. 8, line 23- col. 12, line 48, i.e., the attachment means allows releasable attachment of the wing 51 to the uppermost pad 50 or the middle pad 50.

As is well settled, anticipation requires “identity of invention.” Each and every element recited in a claim must be found in a single prior art reference and arranged as in the claim.

The claims have been amended to recite, among other things, first end portion and second end portion. Because it is not seen where in the cited document or in the Examiner’s basis for rejection the recited structural features of the amended claimed subject matter are in the cited document, the rejection is improper and should be withdrawn.

Additionally, the cover and transfer layer are claimed as separate elements in the rejected claims. The Examiner asserted that “the cover or transfer layer is 22.” This assertion, it is submitted, is not commensurate in scope with the rejected claims, even when broadly interpreted because the Examiner provided no reason for the cover and transfer layer to be one in the same structure given the affirmative claim limitations of a cover and a transfer layer. For this additional reason, the rejection is improper and should be withdrawn.

Claims 5-8 and 16-18 were rejected under 35 USC §102(b) as anticipated by Maulhardt, DE ‘026 (“Maulhardt”). (Paper No. 12 at 7.)

For the reasons set forth below, the rejection, respectfully is traversed.

Maulhardt discloses a sanitary napkin or panty shield (collectively “napkin”) with adhesive strips. (Title.) In particular, Maulhardt discloses a napkin with at least one adhesive strip on the underside whose longitudinal axis is at a right angle to the longitudinal axis of the napkin. (Page 3 (3), first paragraph.) When in use, the strip extends beyond the width of the napkin; when not in use, the protruding area of the strip on the area is folded up on itself across the width of the napkin. (Claim 1 and page 4, (5), second paragraph.) Maulhardt also discloses that the strip consists of a carrier strip that is equipped in the middle area on the side facing the napkin with a layer of adhesive, and has a layer of adhesive sensitive to pressure in the side section on the opposite side. (Claim 2.)

The Examiner stated “[s]ee Figures, especially Figure 2. The wing is 6, the upper surface of which is cover 10 and adhesive layer 12 and the lower surface of which is adhesive layers 15 and page 5, second full paragraph and page 9, lines 1-3 of the translation.” (Paper No. 12 at 7.) The Examiner reasoned that claim 5, line 1 recite capability or function, i.e., capability of securement to a pantiliner having such claimed specifics and to a garment.

At the outset, claims 7 and 8 and 16-18 have been cancelled without prejudice. Accordingly, it is respectfully submitted that the rejection is moot as to those claims and the Examiner is asked to withdraw such rejections.

As is well settled, anticipation requires “identity of invention.” Each and every element recited in a claim must be found in a single prior art reference and arranged as in the claim.

Initially, we note that claim 5 affirmatively requires, among other things, a thong pantiliner. It is not seen where in the cited document or in the Examiner’s basis for rejection a thong pantiliner is to be found. For this reason alone, the rejection of claims 5 and 6 should be withdrawn.

In addition, dependent claim 6 requires, among other things, the attachment wing is dispensed from a roll. It is not seen where in the cited document or in the Examiner’s basis for rejection that an attachment wing that is dispensed from a roll is to be found. For this reason, the rejection of claim 6 should be withdrawn.

Claim 9-12 and 19-21 were rejected under 35 USC §102(b) as anticipated by Bien ‘921. (Paper No. 12 at 8.)

For the reasons set forth below, the rejection, respectfully is traversed.

Bien discloses a pantiliner 20 that has portions or sections that can be removed or otherwise manipulated by the user to change and particularly reduce the dimensions of the pantiliner 20. (Column 6, lines 7-9.) Pantiliner 20 is made of a base pantiliner 20C and several

removable sections. (Column 3, lines 21-22.) Pantiliner 20 is provided with a plurality of perforations arranged in the form of perforation lines. (Column 6, lines 10-12.) The perforation lines are provided in the same configuration as the periphery 26 of the pantiliner. (Column 6, lines 18-20.) The pantiliner 20 can be adjusted in size about 20 mm in its longitudinal dimension and in its transverse dimension. (Column 6, lines 25-27.) The base pantiliner 20C is that portion of the pantiliner that remains after all the removable sections have been removed. According to Bien, the pantiliner can have two flaps each of which are adjacent to and extend laterally from the side edge of the absorbent core. (Column 7, lines 29-32.) The flaps were described as being constructed of various materials including materials similar to the topsheet, backsheet, tissue, or combination of these materials. (Column 7, lines 44-46.) Bien also described that the flaps may be a separate element attached to the main body of the absorbent article or can comprise extensions of the topsheet and backsheet (i.e., unitary). (Column 7, lines 46-49.) Finally, Bien disclosed that the sides of the flaps could be adjusted using perforations. (Column 7, lines 57-59.)

In making the rejection, the Examiner directed “[s]ee Figures, first portion, at the very least, is adjacent one of the ends, second portion is center portion, edges are 22, the core is 32, see col., 4, line 22, the back sheet is 30, see col. 4, lines 60-65, the cover is 28, the transfer sheet is disclosed at col. 8, lines 25-28 which incorporates Osborn ‘264, and thus col. 8 lines 16-56 thereof, the wing is the flap disclosed at col. 7, line 29 – col. 8, line 16, which incorporates Mattingly, e.g., shows that shape of the article can have one larger end portion and one smaller end portion and a still smaller middle portion with a wing. (OA at 3-4.)

As is well settled, anticipation requires “identity of invention.” Each and every element recited in a claim must be found in a single prior art reference and arranged as in the claim.

With all due respect, the Examiner incorrectly asserted that Bien “incorporates Osborn ‘264” (Paper No. 12 at 8), “incorporates Mattingly” (Paper No. 12 at 8) and “Bien incorporated such into the reference” (Paper No. 12 at 10). At col. 7, lns. 49-57, Bien merely refers to various documents disclosing flaps suitable or adaptable for use with the absorbent article described therein. At col. 8, lines 2-16, Bien merely refers to various documents that purportedly disclose side wrapping elements. No language has been found in Bien that incorporates, much less incorporates by reference the disclosure of Mattingly in Bien or Osborn in Bien. Because Bien does not appear to “incorporate” Mattingly or Osborn into its disclosure, any basis of rejection that relies on Mattingly or Osborn is necessary improper and requires that the rejection be withdrawn. The Examiner is asked to provide the exact language in Bien that allegedly

“incorporates” Osborn and Mattingly therein in the next paper issued in the captioned application.

The claims have been amended to recite, among other things, first end portion and second end portion. Because it is not seen where in the cited document or in the Examiner’s basis for rejection the recited structural features of the amended claimed subject matter are in the cited document, the rejection is improper and should be withdrawn.

**Obviousness Rejection**

Claim 15 was rejected under 35 USC §103(a) as being unpatentable over Clark in view of Bien. (Paper No. 12 at 9.)

For the reasons set forth below the rejection, respectfully is traversed.

The Examiner’s assertion of Clark set forth above is incorporated herein by reference.

Bien’s disclosure set forth above is incorporated herein by reference.

In making the rejection, the Examiner asserted that “Applicants claim the pantiliner having a breathable backsheet. (Paper No. 12 at 9.) The Examiner further asserted that Clark discloses a backsheet that can be any film useful in the art. The Examiner admitted, however, the Clark does not disclose a breathable backsheet.

To fill the acknowledged gap, the Examiner looked to Bien, which allegedly discloses a backsheet of plastic film which is breathable and is useful in the art.

The Examiner reasoned that “[t]o make the backsheet of Clark breathable as taught by Bien would be obvious to one of ordinary skill in the art in view of the recognition that such is a plastic barrier film useful in the art and the desire of Clark to employ such a film.

At the outset, the claims have been amended to recite, among other things, first end portion and second end portion. Because it is not seen where in the Clark or Bien or in the Examiner’s basis for rejection that the recited structural features of the amended claimed subject matter are suggested in the cited document. For this reason, the rejection is improper and should be withdrawn.

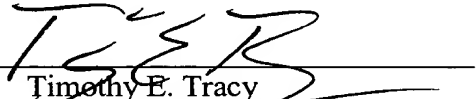
Furthermore, the disclosures of Osborn and Mattingly are not incorporated by reference by Bien. Accordingly, any disclosure of Osborn or Mattingly relied on by the Examiner by use of Bien is improper. For this additional reason, the rejection is improper and should be withdrawn.

Finally, the Examiner is invited to call the applicants’ undersigned representative if any further action will expedite the prosecution of the application or if the Examiner has any suggestions or questions concerning the application or the present Response. In fact, if the claims of the application are not believed to be in full condition for allowance, for any reason,

the applicants respectfully request the constructive assistance and suggestions of the Examiner in drafting one or more acceptable claims pursuant to MPEP § 707.07(j) or in making constructive suggestions pursuant to MPEP § 706.03 so that the application can be placed in allowable condition as soon as possible and without the need for further proceedings.

Respectfully submitted,

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